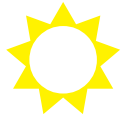


# DOWNSTREAM



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A Newsletter Provided by  
MDC Division of Watershed Management

## Conservation Restrictions: Benefits to Land and Water - by P. Church



CRs help  
preserve  
openspace  
while main-  
taining it as  
privately  
owned land.

### Overview of Conservation Restrictions

**P**rotecting large tracts of land in a small state like Massachusetts is not easy. Massachusetts has the third highest population density in the country and developmental pressures and other competing uses for open space areas are high. The biggest threat to biodiversity in Massachusetts is fragmentation of habitat caused by development. Land conservation is an important tool for protecting habitat, sustaining biodiversity and conserving water resources.

The good news for Massachusetts is that there are many dedicated people in state government and non-profit organizations, as well as individual citizens, that are motivated to help protect open space. The Commonwealth has been making concerted efforts to forge partnerships with local governments, non-profit agencies and private landowners in order to protect land. One way the state has been stretching its conservation dollar is by using cost effective conservation restrictions. Conservation restrictions (CRs) protect land from development while simultaneously encouraging private landowners to continue sustainable stewardship practices on their property.

A conservation restriction (also called a conservation easement) is a legal agreement property owners make to restrict the type and amount of development that may take place on their property. A property owner agrees to sell or donate limited rights to their property to a state or non-

profit land conservation agency. The landowner remains the owner and retains all rights to ownership except those described in the conservation restriction.

There are both conservation and monetary advantages to landowners who sell or donate CRs. Both landowners and the purchasing organization of a CR cannot develop the land in ways prohibited by the deed. In essence, landowners are paid not to develop their property. After the sale of a CR, the property is assessed at a lower value due to its development restrictions, which in turn can reduce the landowner's property taxes and estate taxes. If the CR is donated for conservation purposes, it also generates an income tax deduction. Consultation with a qualified estate planner is strongly recommended.

Once recorded, a CR remains in effect for future owners should the landowner decide to sell the property. CRs are usually permanent, and in order for a CR to qualify as a tax-deductible charitable gift, it must be granted in perpetuity. A popular alternative to placing an entire property under restriction is to exclude specific areas, such as the owner's house and outbuildings. These arrangements are worked out when the land is surveyed by the acquiring agency. After all the legal processes are complete, the land placed under the CR is privately owned open space protected from future development.



## How the MDC works with CRs

The Metropolitan District Commission, Division of Watershed Management (MDC/DWM) pursues the acquisition of CRs as well as fee acquisitions for the purpose of water and watershed protection. Each CR is tailored to the interests of the owner and the MDC. It is the policy of the MDC to purchase CRs that will not conflict with water quality protection. Typical use restrictions include construction of buildings or utilities, septic systems, paving, dumping, excavating, mining, use of pesticides, storing hazardous materials, and certain agricultural activities. Continued use of the property by its owners for forestry, wildlife, recreation and privacy purposes is encouraged.

**CRs usually allow the use of privately held lands for passive recreation and forest management purposes, as well as providing the preservation oriented owner the peace of mind that their land will remain preserved in perpetuity.**



Once the MDC purchases a CR, it assumes the responsibility for conducting a baseline survey of existing conditions. It is very important to document what uses were in effect at the time of the acquisition. An MDC staff person will photo-document the entire property, prepare maps and gather as much information as possible about the property from the owner. Permissible uses are also generally transferred with new ownership if the CR property is sold. In the spirit of conservation, items that may be inconsistent with the provisions of the CR (such as junk cars or other waste debris) are requested to be removed by the owners. A yearly inspection is conducted to ensure that the purposes of the CR are being maintained. The MDC works with landowners to help prevent negative

impacts, such as abutter encroachments and unauthorized recreational access and will help provide technical assistance on managing their lands.

The MDC/DWM currently holds 50 CRs across the Quabbin Reservoir, Ware River and Wachusett Reservoir watersheds. These CRs total approximately 3,400 protected acres. Most CR owners are individuals, although the MDC has also acquired CRs from sportsman's clubs, golf courses, and municipalities.

Conservation restrictions are not suitable for everyone, but for those landowners who wish to manage their property for forestry, wildlife and open space preservation, CRs are a wonderful opportunity. There are benefits in the realm of tax relief and estate planning. Many participants have stated that the greatest benefit of all is the piece of mind in knowing their land will remain undeveloped and left in its natural state for generations to come.💧



**This area atop Mt. Jefferson was recently purchased by the Town of Hubbardston in partnership with several state and non-profit agencies, including a CR with the MDC. As a result, this highly visible area will now help preserve the town's rural character.**

## The Power of Partnerships; An Openspace Case Example in Hubbardston

The Town of Hubbardston, in March of 2002, bought a 250 acre piece of property that runs along the top of Mt. Jefferson. This significant tract of open space, which was in imminent danger of being developed, epitomizes the rural character of Hubbardston -- quiet country roads, forests, wide open fields with views for miles and excellent wildlife habitat.

The MDC had been negotiating with the former owners to purchase the property for watershed protection purposes. A developer eventually outbid the MDC; initial engineering conducted on the site planned for 25 homes along Mt. Jefferson Road. The property, however, was in the Chapter 61 program. A landowner that enters into the Chapter 61, 61A, or 61B programs receives tax abatements in return for keeping the property as forestry, agricultural or recreational open space. This program gave the town of Hubbardston the right to match the acquisition offer within 120 days of the purchase and sale agreement. Recognizing the impending loss of such a valuable piece of open space property, the town reached out for assistance to the MDC, the Department of Environmental Management (DEM), Mt. Grace Land Trust, Secretary Bob Durand from the Executive Office of Environmental Affairs (EOEA), the Division of Conservation Services, Senator Stephen Brewer and Representative David Bunker.

Support of this project was overwhelming, including a unanimous vote from the residents of Hubbardston at a special Town Meeting. The coalition pooled their resources, which included the MDC acquiring a CR on the property. The town was ultimately able to buy the entire parcel, which will be used for passive recreation. Hubbardston will also be able to garner some revenue from the land by continuing to hay the fields and practice environmentally sound forestry on the woodlands. The MDC/DWM continues to look for these "win-win" situations where a critical piece of community land is preserved, which in turn helps protect the metropolitan water supply. 💧

Peter Church is the Director of Natural Resources for the MDC/DWM.



Enactment of a CR can help leave some reminders of our agrarian past undisturbed, thereby preserving cultural heritage as well as rural character.

## Further Reading

for more about Conservation Restrictions...

The Massachusetts Conservation Restriction Handbook. EOEA, Division of Conservation Services, 1992.

or see: [www.state.ma.us/envir/conservation/restrictions.pdf](http://www.state.ma.us/envir/conservation/restrictions.pdf)

Preserving Family Lands. Stephen J. Small, Landowner Planning Center, 1992.

Working Lands: A Resource Guide for Mass. Forest and Farm Owners. Worcester County Conservation District and Mass. Watershed Coalition, 2001.

Land Conservation Options: A Guide for Massachusetts Landowners. W.T. Ward, The Trustees of Reservations and Essex County Greenbelt Association, 1998.

Also visit the MDC/DWM online at:  
[www.state.ma.us/mdc/water.htm](http://www.state.ma.us/mdc/water.htm)

## And Another Thing...

by J. Taylor



"Gosh Lois, Just look at all this habitat!"

Downstream is produced twice yearly by the Metropolitan District Commission/Division of Watershed Management of The Commonwealth of Massachusetts, and includes articles of interest to residents of the watershed system communities. Our goal is to inform the public about Watershed Protection issues and activities, provide a conduit for public input, and promote environmentally responsible land management practices.

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EOEA Secretary:	Bob Durand
MDC Commissioner:	David B. Balfour, Jr.
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## Massachusetts Land Facts

- Massachusetts has 5 million acres of land.
- 3.1 million acres, or 62%, is forested.
- 900,000 acres of land is protected by federal, state and non-profit agencies.
- MDC/DWM manages over 100,000 acres of that land in its Quabbin, Wachusett and Sudbury Reservoirs and Ware River watersheds.



We value the contribution your well cared for land provides and welcome the opportunity to work with you. Please send us questions or comments which we will address in subsequent newsletters, or contact us if you wish to learn more about programs and assistance available to help landowners. Our address is shown below.



### Conservation Restrictions (CRs)

*The following topics are discussed:*

#### Overview of Conservation Restrictions 1

How the MDC works with CRs 2

The Power of Partnerships 2

Further Reading 3

TO:



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